

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA, <i>ex rel.</i>	)	
SCOTT R. JOHNSTON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	1:21CV273
	)	
BANK OF AMERICA, N.A.,	)	
	)	
Defendant.	)	

**ORDER**

The Order, Memorandum Opinion and Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on August 18, 2023, was served on the parties in this action. (Doc. 42.) Objections were filed within the time limits prescribed by section 636. (Doc. 44.) Defendant Bank of America filed a response to the objections. (Doc. 45.)

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objections were made and has made a de novo determination in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that Defendant Bank of America, N.A.'s Motion to Dismiss (Doc. 33) is GRANTED and Plaintiff-Relator Scott

R. Johnston's First Amended Complaint is DISMISSED WITH PREJUDICE.<sup>1</sup>

/s/ Thomas D. Schroeder  
United States District Judge

September 28, 2022

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<sup>1</sup> The record reflects that although the Government declined to intervene in this action, it did raise the consent-for-dismissal provision of 31 U.S.C. § 3730(b)(1), requesting that if "either the relator or the defendant propose that this action be dismissed . . . or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval." (Doc. 12 at 1.) In response, the Order of this court instructed the Government to file its written consent, or lack thereof, within 14 days of service of a proposal by the relator or the Defendant that this action be dismissed. (See Doc. 13 at 2.) The record does not reflect the Government's position on BOA's motion to dismiss. In any event, the Recommendation herein is subject to a final ruling by the court. See 28 U.S.C. § 636(b)(1).